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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/624,047	07/21/2003	Jeffrey R. Schoer	S572-002-PAT	5927
7590 03/14/2006 Angenehm Law Firm. Ltd. P.O. Box 48755 Coon Rapids, MN 55448-0755			EXAMINER KEENAN, JAMES W	
			ART UNIT 3652	PAPER NUMBER

DATE MAILED: 03/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/624,047	<b>Applicant(s)</b> SCHOER ET AL.	
	<b>Examiner</b> James Keenan	<b>Art Unit</b> 3652	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 January 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-11 and 13-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 and 13-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 July 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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1. New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because they are informal in nature. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

2. The specification and declaration both incorrectly refer to the provisional application 60/398,032 as being filed 7/23/2003 rather than 7/23/2002.

Acknowledgement is made of applicant's correction to the specification. Although the content of the correction is acceptable, the form is not, because it is on the same page as the claims. It must be submitted on a separate sheet, otherwise it will not be printed.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

JK 3/1/06  
1-11 and 13-20  
4. Claims ~~1-20~~ are rejected under 35 U.S.C. 103(a) as being unpatentable over Barrett (US 2,293,486) in view of Sukup (US 5,520,495), Roth (US 6,092,974) and Ehlers (US 6,425,725).

Barrett shows a bulk dispenser in which a vehicle body 14 is divided into a plurality of compartments each having a gate 24 such that material in each compartment can be emptied onto one end of a conveyor 30 which is mounted to a trolley that moves longitudinally along the vehicle to position the conveyor relative to the gate of a desired compartment.

The compartmented body of Barrett is integral with the vehicle chassis, rather than having separate boxes mounted on separate frames with alignment and locking means.

Ehlers shows a similar apparatus wherein separate boxes 23 are mounted on frames 26 of a flat bed vehicle, such that material in the boxes can be selectively emptied therefrom by a conveyor. The frames include legs 28, rails 30, and alignment and locking means 25, 38, etc.

Barrett also shows the conveyor receiving material directly from the gated compartments rather than employing a separate chute joined to the frame and selectively connected to the box and trolley.

Roth shows a flat bed vehicle which receives boxes of bulk material to be dispensed therefrom into chute 64, but the chute is not movable.

Sukup shows a similar vehicle for dispensing boxes of bulk material, including a conveyor mounted for longitudinal movement along the vehicle and having a chute 70 selectively movable to a position in which it receives material from the boxes.

It would have been obvious for one of ordinary skill in the art at the time of the invention to have modified the apparatus of Barrett to include frames for holding boxes

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of bulk material and a chute movable to positions between the conveyor and the boxes, as jointly suggested by Sukup, Roth, and Ehlers, as these would simply be well known design expediciencies which would allow the apparatus to be used for other bulk products such as boxed seed.

5. Applicant's arguments filed 1/9/06 have been fully considered but they are not persuasive.

Re claim 1, applicant argues not that the obviousness of the rejection *per se* is inappropriate but only that none of the references show "legs interconnected with front ..., rear, right ... and left ... rail[s]", "an alignment wedge", and "at least one lock down lip". The previous Office action indicated that these features were shown by Ehlers (with specific reference numerals). Although the examiner did not explicitly point out front, rear, left, and right rails, this is self explanatory from the reference. As for applicant's assertion that the indicated alignment and locking means of Ehlers do not have the particular structure which applicant is claiming, it is noted that applicant is not actually claiming any structure or even function of these components. They are only nominally claimed; nothing in the claims defines over the components pointed out by the examiner.

Applicants arguments re claim 16 are essentially the same, namely that the references "appear to have only one frame and one box", whereas applicant's invention "allows an infinite number" and allows "the trolley to service the entire matrix". However, no such limitations exist; the claim only requires first and second boxes and frames,

which, as previously indicated, are shown by Ehlers. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Finally, as to applicant's assertion that a final Office action would be inappropriate because each claim limitation was not properly identified, this is untenable. As noted above, the only limitation the examiner did not explicitly point out was the location of each specific rail. However, there is no reason why applicant would have to "guess" which rail was left, right, front, or rear, nor would it even make any difference because these are merely directional terms which are not set forth in relation to any other portion of the claimed device.

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of


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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Keenan whose telephone number is 571-272-6925. The examiner can normally be reached on (schedule varies).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eillen Lillis can be reached on 571-272-6928. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
James Keenan  
Primary Examiner  
Art Unit 3652

jwk  
3/7/06